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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,721	03/04/2005	Jean-Francois Wittmann	2002CH204	9622

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CLARIANT CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
4000 MONROE ROAD  
CHARLOTTE, NC 28205

EXAMINER
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ABU-ALI, SHUANGYI

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/526,721

Applicant(s)

WITTMANN, JEAN-FRANCOIS

Examiner

Shuangyi Abu-Ali

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03/04/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 9 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 10/526,721.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

(1)

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

(2)

### ***Claim Objections***

Claim 9 objected to because of the following informalities: "process" is omitted from the claim. Appropriate correction is required.

Claim 15 objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim does not refer to the preceding claim in the alternative. See MPEP § 608.01(n).

(3)

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Art Unit: 1755

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 15 rejected to because the claimed invention is directed to non-statutory subject matter. How to use masterbatches is not a statutory subject matter.

(4)

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim 5 is specifically rejected because it is confusing what particle size range the applicant is attempting to disclose. The claim, as currently written, discloses that "...the particle size of the pellets is from larger than 2.0mm to 4.0mm." It would thus appear that 2.0 to 4.0 mm is the minimum size of the pellets. As the invention is drawn to micropellets, claim 5 has been interpreted as disclosing the maximum upper range of the pellet size.

(5)

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12, 14 and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,151,324 to Hanatani et al.

Regarding claims 1, 6, 7 and 19, Hanatani et al. disclose a pigment concentrate (masterbatch) suitable for use in plastics molding comprising a two-part mixture. The first part comprises 100 part of propylene-ethylene block copolymer, 1 part of dibutyltin dilaurate, 1.8 parts titanium dioxide, 0.1 part of magnesium stearate and 0.1 part of zinc stearate. The second part consists of 100 parts of propylene-ethylene block copolymer, 0.5 part of carbon black, 0.2 part of magnesium stearate and 0.2 part of zinc stearate and 5 parts of above pigment (col. 5, lines 15-45). Hanatani et al. disclose that the propylene-ethylene block copolymer utilized in both the first and second parts has a density of 0.862 to 0.965 g/cm<sup>3</sup> (col. 2, lines 54-55).

Regarding claims 2, 3, 5 and 16-18, Hanatani et al. specially point out that the mean size of the particulate is around 1- 10000 µm. The particulate is either in pellet or bead shape. The L/d value is around 0.5-3 (col. 3, lines 19 –24). As both the first part

Art Unit: 1755

and the second part are processed (kneaded) in the same mixer/tumbler/blender, the particles would have substantially the same particle size and shape (col. 3, lines 35-38).

Regarding claim 4, Hanatani et al. suggest antistatic agents, coloring material, additives such as filler and foaming agents can be added into pellets (col.5, lines 1-5). Adding antistatic agent can achieve equal electrostatic properties for the pellets.

Regarding applicant claims 8-10, Hanatani et al. disclose that the density/specific weight of the first and second parts can be varied by adjusting the amount of pigment, by adding a filler or by the addition of a foaming agent (col. 5, lines 1-5).

Regarding to claims 11, 12 and 14, Hanatani et al. disclose the pellets and pigment of a masterbatch go through an inline screw type injection molder and molded into a plastic board (col.5, lines 45-48).

(6)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 1755

- (1) Determining the scope and contents of the prior art.
- (2) Ascertaining the differences between the prior art and the claims at issue.
- (3) Resolving the level of ordinary skill in the pertinent art.
- (4) Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 13 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,151,324 to Hanatani et al. as applied to claim 12 above, and further in view of U. S. Patent 5,262,471 to Akao.

Regarding claims 13 and 20, Hanatani et al are silent about the products made from masterbatch are in fiber form. Nonetheless, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize the two-part composition of Hanatani et al. in the formation of molded fibers motivated by the fact that Akao, also drawn to two-part masterbatch compositions, describes in his patent that such masterbatch compositions are useful in the molding of non-woven fabric (col. 6, lines 23-49).

(7)

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Such prior art includes reference C-G listed on Form PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shuangyi Abu-Ali whose telephone number is 571-272-6453. The examiner can normally be reached on Monday - Friday.

Art Unit: 1755

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AS

  
J. A. LORENCO  
SUPERVISORY PATENT EXAMINER